

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF 3 R	)	APPEAL NO. 06-A-2035
INVESTMENTS, LLC from the decision of the	)	FINAL DECISION
Board of Equalization of Shoshone County for	)	AND ORDER
tax year 2006	)	

**COMMERCIAL PROPERTY APPEAL**

THIS MATTER came on for hearing October 27, 2006, in Wallace, Idaho, before Board Member Vernon L. Driver. Board Members Lyle R. Cobbs and David E. Kinghorn participated in this decision. Partner Richard Wekerle appeared for Appellant. Deputy Assessor Greg Saylor appeared for Respondent Shoshone County. This appeal is taken from a decision of the Shoshone County Board of Equalization denying the protest of the valuation for taxing purposes of property described as Parcel No. RPD0975002007AA.

**The issue on appeal is the market value of the land portion of a commercial property.**

**The decision of the Shoshone County Board of Equalization is affirmed.**

FINDINGS OF FACT

The assessed land value is \$378,718, and the improvements' valuation is \$1,515,200, totaling \$1,893,918. Appellant requests the land value be reduced to \$275,000, and makes no request to alter the improvements valuation, resulting in a total assessed value of \$1,790,200.

The subject property includes a 17,711 square foot office complex located south of Bunker Avenue in Kellogg, Idaho zoned for commercial use. Subject land is a 81,664 square foot lot referred to as Lot 7 Block 2 of the Ross-Joy Commercial Addition. The subject property was purchased in 2000 for \$196,500, calculated to be approximately \$2.41 per square foot.

The leased fee estate was valued by a certified appraiser at \$1,850,000 in April 2005. The land was not appraised separately from the building. Both parties testified that the value of

the property had since increased.

Respondent presented testimony that the subject property's assessment increased approximately 42% between 2004 and 2005. According to Respondent, the 2004 land value increased from \$2.35 per square foot (a lesser amount than the purchase price in 2000) to \$2.65 per square foot in 2005, a 13% increase. The County applied a trend factor of 1.75 to all commercial property in Kellogg, resulting in subject's 2006 land assessment of \$378,718 or \$4.64 per square foot; a 75% increase over the 2005 assessment, but only an increase of 14% over the April 2005 appraisal.

Two comparable, but smaller commercial properties in the area were sold in July and November 2005 for \$4.44 and \$9.38 per square foot, respectively.

#### CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

The definition of market value is found in Idaho Code § 63-201(10):

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

The valuation placed on property by the assessor for tax purposes is presumed to be correct. Therefore, the burden of proof lies with the party challenging the assessment to show by a preponderance of the evidence that he is entitled to relief. Greenfield Village Apartments,

L.P. v. Ada County, 130 Idaho 207, 209 (1997).

Relief can be granted only if the assessor's valuation is "manifestly excessive, fraudulent or oppressive; or arbitrary, capricious and erroneous." Greenfield Village Apartments at 209 citing Merris v. Ada County, 100 Idaho 59, 64 (1979).

Although Appellant argued that the total value of the land should be \$275,000 or \$3.37 per square foot, the April 2005 appraisal was \$334,800, or \$4.10 per square foot. Both parties agreed subject had appreciated between the time of appraisal and the January 1, 2006 assessment.

The assessed value is within the range established by sales of comparable commercial property in 2005. Furthermore, there was no evidence presented to establish that the methodology used to calculate the trend line was manifestly excessive, fraudulent or oppressive; or arbitrary, capricious and erroneous. Appellant has not met the burden of proof in this matter, therefore, the decision of the Shoshone County Board of Equalization is affirmed.

#### FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Shoshone County Board of Equalization concerning the subject parcel be, and the same hereby is, affirmed.

DATED this 27th day of April 2007.